

MDR Tracking Number: M5-04-1581-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 02-03-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening program was found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 12th day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 06-09-03 through 06-27-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 12th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

March 11, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: MDR #: M5-04-1581-01
IRO Certificate No.: IRO 5055

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence
Office and Physical Therapy notes
Functional Capacity Evaluation
Operative report

Clinical History:

This 64-year-old female worker injured herself on _____. She had immediate onset of sharp pain in her lower back with radiation of pain into both buttocks and thighs. She presented to a doctor of chiropractic for spinal adjustments and physical therapy, and eventually underwent injections to her S1 nerve roots. Towards the end of her care, she participated in a 3- week work hardening/conditioning program. A designated doctor finally declared her MMI on 9/17/03 with a 5% whole-person impairment.

Disputed Services:

Work hardening program during the period of 06/09/03 through 06/27/03

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the work hardening program in dispute was medically necessary in treating of the work-related injury sustained on ____.

Rationale:

This patient sustained a legitimate compensable injury in ____, she subsequently underwent a conservative trial of spinal adjustments and physical therapy. When she continued to be symptomatic, she received S1 nerve root injections on the right in March and April 2002. Although the records fairly strongly suggest that the injury was primarily soft tissue in nature, the MRI performed in December 2001 demonstrated significant complicating structural factors that could certainly result in a protracted treatment time and a less-than-optimal response to conservative measures. Moreover, considering the patient's age at the time of the injury, and the functional capacity evaluation (FCE) performed on 04/01/03 that revealed "severe functional deficit in 6/6 activities" and qualified for only "sedentary strength capacity" when her employment required light-duty strength, it would have been medically necessary for her to participate in a work hardening/conditioning program to return her to work. (In fact, the carrier even pre-authorized 3 weeks of it on 05/16/03.) Finally, a designated doctor from the state of ____ determined that the patient did not reach MMI until September 2003, nearly 3 months following the completion of the work hardening program in dispute.

Therefore, the preponderance of evidence submitted through the medical records collectively supports the medical necessity of these services for treatment of the work-related injury sustained on ____.

ADDITIONAL COMMENTS:

Upon careful review of the records, it was noted that an initial impairment rating by a designated doctor on April 1, 2003 first determined that the patient was MMI with a 0% whole-person impairment on that date. Then, the records also included the subsequent impairment rating of September 17, 2003 that stated she was MMI on the later date with a 5% whole-person impairment. Although the records did not include a document that specifically showed that ____ had rescinded his first opinion, this reviewer is operating on that assumption in this review.

Sincerely,